

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 111

AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 20-26-9-2, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. **(a) This subsection applies before July 1, 2007.** As used in this chapter, "qualifying school building" refers to a public school building in which:

- (1) at least twenty-five percent (25%) of the students who were enrolled at that school building during the prior school year qualified for free or reduced price lunches under guidelines established under 42 U.S.C. 1758(b); and
- (2) lunches are served to students.

(b) This subsection applies after June 30, 2007. As used in this chapter, "qualifying school building" refers to a public school building in which:

- (1) at least fifteen percent (15%) of the students who were enrolled at that school building during the prior school year qualified for free or reduced price lunches under guidelines established under 42 U.S.C. 1758(b); and**
- (2) lunches are served to students.**

SECTION 2. IC 20-26-9-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 18. (a) Before July 1, 2007, each school board shall**

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establish a coordinated school health advisory council (referred to as the "advisory council" in this section). The advisory council may review the corporation's wellness policies on a yearly basis and suggest to the school board for approval changes to the policies that comply with the requirements of federal Public Law 108-265 and IC 5-22-15-24(c) before July 1 of each year. The advisory council must hold at least one (1) hearing at which public testimony about the local wellness policy being developed is allowed.

(b) The school board shall appoint the members of the advisory council, which must include the following:

- (1) Parents.
- (2) Food service directors and staff.
- (3) Students.
- (4) Nutritionists or certified dietitians.
- (5) Health care professionals.
- (6) School board members.
- (7) A school administrator.
- (8) Representatives of interested community organizations.

(c) The school board shall adopt a school district policy on child nutrition and physical activity that takes into consideration recommendations made by the advisory council.

(d) The department shall, in consultation with the state department of health, provide technical assistance to the advisory councils, including providing information on health, nutrition, and physical activity, through educational materials and professional development opportunities. The department shall provide the information given to an advisory council under this subsection to a school or parent upon request.

SECTION 3. IC 20-26-9-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 19. (a) This section does not apply to a food or beverage item that is:**

- (1) part of a school lunch program or school breakfast program;
- (2) sold in an area that is not accessible to students;
- (3) sold after normal school hours; or
- (4) sold or distributed as part of a fundraiser conducted by students, teachers, school groups, or parent groups, if the food or beverage is not intended for student consumption during the school day.

However, this section applies to a food or beverage item that is sold in the a la carte line of a school cafeteria and is not part of the

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federal school lunch program or federal school breakfast program.

(b) A vending machine at an elementary school that dispenses food or beverage items may not be accessible to students.

(c) At least fifty percent (50%) of the food items available for sale at a school or on school grounds must qualify as better choice foods and at least fifty percent (50%) of the beverage items available for sale at a school or on school grounds must qualify as better choice beverages. Food and beverage items are subject to the following for purposes of this subsection:

- (1) The following do not qualify as better choice beverages:
 - (A) Soft drinks, punch, iced tea, and coffee.
 - (B) Fruit or vegetable based drinks that contain less than fifty percent (50%) real fruit or vegetable juice or that contain additional caloric sweeteners.
 - (C) Except for low fat and fat free chocolate milk, drinks that contain caffeine.
- (2) The following qualify as better choice beverages:
 - (A) Fruit or vegetable based drinks that:
 - (i) contain at least fifty percent (50%) real fruit or vegetable juice; and
 - (ii) do not contain additional caloric sweeteners.
 - (B) Water and seltzer water that do not contain additional caloric sweeteners.
 - (C) Low fat and fat free milk, including chocolate milk, soy milk, rice milk, and other similar dairy and nondairy calcium fortified milks.
 - (D) Isotonic beverages.
- (3) Food items that meet all the following standards are considered better choice foods:
 - (A) Not more than thirty percent (30%) of their total calories are from fat.
 - (B) Not more than ten percent (10%) of their total calories are from saturated and trans fat.
 - (C) Not more than thirty-five percent (35%) of their weight is from sugars that do not occur naturally in fruits, vegetables, or dairy products.
- (d) A food item available for sale at a school or on school grounds may not exceed the following portion limits if the food item contains more than two hundred ten (210) calories:
 - (1) In the case of potato chips, crackers, popcorn, cereal, trail mixes, nuts, seeds, dried fruit, and jerky, one and seventy-five hundredths (1.75) ounces.

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- (2) In the case of cookies and cereal bars, two (2) ounces.
- (3) In the case of bakery items, including pastries, muffins, and donuts, three (3) ounces.
- (4) In the case of frozen desserts, including ice cream, three (3) fluid ounces.
- (5) In the case of nonfrozen yogurt, eight (8) ounces.
- (6) In the case of entree items and side dish items, including french fries and onion rings, the food item available for sale may not exceed the portion of the same entree item or side dish item that is served as part of the school lunch program or school breakfast program.

(e) A beverage item available for sale at a school or on school grounds may not exceed twenty (20) ounces.

SECTION 4. IC 20-30-5-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7.5. (a) This section does not apply to a student who:

- (1) is in half-day kindergarten; or
- (2) has a medical condition that precludes participation in the daily physical activity provided under this section.

(b) Beginning in the 2006-2007 school year, the governing body of each school corporation shall provide daily physical activity for students in elementary school. The physical activity must be consistent with the curriculum and programs developed under IC 20-19-3-6 and may include the use of recess. On a day when there is inclement weather or unplanned circumstances have shortened the school day, the school corporation may provide physical activity alternatives or elect not to provide physical activity.

SECTION 5. [EFFECTIVE JULY 1, 2006] (a) IC 20-26-9-19, as added by this act, does not apply to a contract that:

- (1) was executed before July 1, 2006;
- (2) takes effect not later than July 1, 2006; and
- (3) requires a governing body of a school corporation to allow the sale of:

- (A) soft drinks and similar beverages; or
- (B) food;

with no or low nutritional value, as defined by the United States Department of Agriculture, from vending machines or other dispensing units during school hours.

However, the governing body may not renew a contract described in this SECTION and, after the contract expires, must comply with IC 20-26-9-19, as added by this act.

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(b) This SECTION expires July 1, 2011.

SECTION 6. [EFFECTIVE JULY 1, 2006] (a) Notwithstanding IC 20-26-9-19(c), as added by this act, the following percentages of foods and beverages sold at school or on school grounds must qualify as a better choice food or a better choice beverage, as described in IC 20-26-9-19(c), as added by this act:

(1) Thirty-five percent (35%), beginning July 1, 2006, through August 31, 2007.

(2) Fifty percent (50%), beginning September 1, 2007.

(b) This SECTION expires December 31, 2008.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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